United Nations A/67/606

General Assembly

Distr.: General
3 December 2012

Original: English

Sixty-seventh session
Agenda item 130
Programme budget for the biennium 2012-2013

Request for a subvention to the Special Court for Sierra Leone

Report of the Secretary-General

Summary

In his letter dated 8 November 2012 addressed to the President of the Security Council (S/2012/891), the Secretary-General informed the Council that despite increased efforts to secure funding for the Special Court for Sierra Leone, there would not be sufficient voluntary contributions for the Court to complete its work. The Secretary-General indicated that the possibility of the Special Court running out of funds was of particular concern since the Court was in the process of completing the appeal in its final case against the former President of Liberia, Charles Taylor. In the light of those issues, the Secretary-General requested the Security Council to advise him on the matter and propose having it brought to the attention of the General Assembly, with a view to seeking the appropriation of funds for the Court while preserving the Court's independence. In his reply dated 28 November 2012 (S/2012/892), the President of the Security Council advised the Secretary-General that the Council members had taken note with certain reservations of the intention expressed in the letter and that they requested the United Nations Secretariat, the Management Committee and the Registrar and other senior officials of the Special Court to intensify their efforts to balance the budget and fund the activities of the Court through voluntary contributions. The President further informed the Secretary-General that there was no agreement with respect to the possible need for alternate means of financing the Residual Special Court for Sierra Leone.

Given the current funding situation of the Special Court, and with a view to avoiding a potential collapse of the Court's operation, the present report sets out the overall level of regular budget resources required for the completion of the Special Court's activities for the period through 31 December 2013.

Despite continued fundraising efforts, the Special Court will experience a shortfall in contributions in the amount of $921,156 as at the end of 2012. Total requirements for 2013 are estimated at $13,078,844, including costs of operations for

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the period January to September 2013 ($11,195,000), ad hoc contempt proceedings ($383,844) and tasks between October to December 2013 to prepare for the transition to the Residual Special Court ($1,500,000). Unless further voluntary contributions of $14,000,000 are made available, the Court will not have sufficient funds for its operations during the last three weeks of December 2012 and for the period from 1 January to 31 December 2013.

Consequently, the General Assembly is requested to approve a subvention of $14,000,000 for the Special Court for 2013.

I. Introduction

1. The present report on the financial difficulties encountered by the Special Court for Sierra Leone since 2010 and the various financial constraints the Court currently faces with regard to its operations in 2013 is submitted to the General Assembly in order to request a subvention for the period covering the last three weeks of December 2012 through December 2013. Despite the extraordinary efforts of the key donors of the Special Court, including the Member States of the Management Committee, and the intense fundraising efforts made by the Principals of the Court, financing through voluntary contributions will not be sufficient to meet the budgetary requirements for the Court's operations until the completion of its judicial activities in September 2013 and for its transition to the Residual Special Court for Sierra Leone in December 2013. In 2011, the Court sent 84 fundraising letters and held 47 fundraising meetings; from 1 January to 8 November 2012, it sent 154 fundraising letters and held 95 fundraising meetings.

2. Furthermore, in accordance with article 14 of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone, the Residual Special Court is to commence operations immediately upon the closure of the Special Court. The Residual Special Court will require funding for functioning, ongoing operations and ad hoc proceedings. To date, donors have not pledged any contributions for the activities of the Special Court through the completion of its mandate in 2013, for its transition to the Residual Special Court or for the daily operations of the Residual Special Court.

3. In his letter dated 8 November 2012 (S/2012/891), the Secretary-General informed the Security Council that despite increased efforts to secure funding for the Special Court, there would not be sufficient voluntary contributions for the Court to complete its work. The Secretary-General indicated that the possibility of the Court running out of funds was of particular concern since the Court was in the process of completing the appeal in its final case against the former President of Liberia, Charles Taylor. In the light of those issues, the Secretary-General requested the Security Council to advise him on the matter and propose having it brought to the attention of the General Assembly, with a view to seeking the appropriation of funds for the Court, while preserving the Court's independence.

4. In his reply dated 28 November 2012 (S/2012/892), the President of the Security Council advised the Secretary-General that the Council members had taken note with certain reservations of the intention expressed in the letter and that they requested the United Nations Secretariat, the Management Committee and the Registrar and other senior officials of the Special Court to intensify their efforts to balance the budget and fund the activities of the Court through voluntary contributions. The President further informed the Secretary-General that there was no agreement with respect to the possible need for alternate means of financing the Residual Special Court for Sierra Leone.

5. It was not anticipated in 2010 that the mandate of the Special Court would be extended until 2013. However, owing to a number of unforeseen factors in completing its final case against Mr. Taylor, including the length of the case and the complexity of the legal issues raised, the Special Court was not able to meet the judicial milestones it had previously envisioned. The trial represents the first time a sitting Head of State has been tried in an international court since the Second World

War. Additionally, the case was argued over a period of 420 trial days, during which 115 witnesses were heard, 1,521 exhibits were admitted and 49,000 pages of transcripts were produced, all of which then had to be reviewed by the Trial Chamber. The case is now in its final appellate phase. Mr. Taylor and the Prosecution have submitted a total of 49 grounds of appeal against the trial judgement, on which the Appeals Chamber will make a final adjudication by September 2013. It should be noted that the Appeals Chamber has met its deadline in all previous cases.

6. As a result of these developments and of circumstances beyond the control of the Special Court, the Court requires additional time and financial support for the completion of the Taylor case by September 2013 and for transition to the Residual Special Court by December 2013. The present report therefore sets out the level of resources required for the period from December 2012 to December 2013, the anticipated date when the Court will have completed the judicial proceedings and its transition to the Residual Special Court. Accordingly, the present report includes a request for $14 million in subvention to the Special Court through 2013.

7. The Special Court will continue its multipronged approach of supporting judicial proceedings and managing the tasks related to its timely closure and to its transition to the Residual Special Court. The delivery of an appeals judgement in the Taylor case is expected in September 2013 and will mark the conclusion of all trials relating to the Court's core mandate of bringing to justice those who bear the greatest responsibility for the crimes committed in Sierra Leone since 30 November 1996. In accordance with article 11 of the Agreement on the Establishment of the Residual Special Court for Sierra Leone, the Residual Special Court is intended to "carry out the functions of the Special Court for Sierra Leone that must continue after the closure of the Court". Furthermore, pursuant to article 14 of the Agreement, the Residual Special Court "shall commence operations immediately upon the closure of the Court". Judicial and practical arrangements for the smooth transition to and functioning of the Residual Special Court are currently being put in place; however, additional arrangements, judicial instruments and policies will need to be developed. It is estimated that a period of approximately eight to ten weeks will be needed to finalize the completion and transition tasks, including the final archiving of the Special Court's evidence and records, final audits, the repatriation of staff, the liquidation phase and the preparation of final reports.

II. Historical background

8. In its resolution 1315 (2000), the Security Council requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court with the primary objective of prosecuting persons who bore the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone.

9. In previous reports (S/2000/915, para. 71, and S/2001/40, para. 11), the Secretary-General expressed the view that the only realistic solution was for the Special Court to be financed from assessed contributions, as that would produce a viable and sustainable financial mechanism affording secure and continuous

funding. In his letter to the Secretary-General dated 22 December 2000 (S/2000/1234), the President of the Security Council reiterated the support of the Council for its resolution 1315 (2000), under which the Special Court would be funded through voluntary contributions. However, it was understood by the Security Council that the Secretary-General would not be expected to create any institution for which he did not have adequate funds in hand for at least 12 months and pledges to cover expenses for a second year of the Court's operation.

10. Consequently, after sufficient funds had been received and substantial amounts pledged for that purpose, on 16 January 2002 the United Nations Legal Counsel and the Attorney-General of Sierra Leone signed the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (S/2002/246 and Corr.2 and 3, appendix II).

11. Article 6 of the Agreement stipulates that "should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Special Court".

12. At various points during 2010, the Court again experienced a financial crisis. It was only through the extraordinary efforts of its key donors, and in particular the Management Committee, that the Court was able to proceed with the Taylor trial without disruption. The Member States of the Management Committee not only made additional contributions but also encouraged other Governments to donate, and as a last resort requested the Secretary-General to seek a subvention from the United Nations.

13. In his letter dated 6 October 2010 to the President of the Security Council (S/2010/560), the Secretary-General highlighted the fact that, in spite of the various appeals that he, the Management Committee, the Registrar and other senior Special Court officials had made for the funding of the Court, there would not be sufficient voluntary contributions for the Court to complete its work. The Secretary-General stated that the possibility of the Court running out of funds was of particular concern since the Court was in the process of completing its final case, the trial of Mr. Taylor. In the light of those issues, the Secretary-General noted that the Security Council might wish to advise him to bring the matter to the attention of the General Assembly with a view to seeking the appropriation of funds, while preserving the independent nature of the Court.

14. In his letter dated 29 October 2010 (S/2010/561), the President of the Security Council advised the Secretary-General that the Council had no objection to the proposal of supplementing voluntary contributions with the following understanding: (a) it was not expected that there would be additional subventions for the Special Court for Sierra Leone; and (b) that the United Nations Secretariat, the Management Committee, and the Registrar and other senior Court officials would intensify their fundraising activities to secure voluntary contributions for the Court.

15. Subsequently, in his report on requesting a subvention to the Special Court for Sierra Leone (A/65/570), the Secretary-General requested that the subvention cover the Court's activities for the period from 1 November 2010 to 29 February 2012. The report indicated that despite the efforts made by the Secretary-General, as well as demarches and other efforts at the highest level by representatives of Member States and court officials, financing through voluntary contributions would have enabled the Court to operate only through 31 October 2010 before all available

funds were depleted. The Secretary-General therefore requested the General Assembly to approve a subvention of $11,057,455 for the estimated requirements of 2011 and an additional $2,356,750 for the period from 1 January to 29 February 2012.

16. After having taken into consideration the additional pledges the Court had received subsequent to the issuance of the report of the Secretary-General, the Advisory Committee on Administrative and Budgetary Questions noted in its report (A/65/603) that the revised request for a subvention amounted to $12,239,344 and that, of that amount, $9,882,594 would be required for 2011, with the remainder, $2,356,750, required for the period from 1 January to 29 February 2012. The Committee recommended that the General Assembly approve, as an exceptional measure, funding of up to $12,239,344, covering the periods from 1 January to 31 December 2011 and from 1 January to 29 February 2012, to supplement the voluntary financial resources of the Court so that it could complete its work. The Committee recommended that the Assembly approve a subvention for the Special Court in the amount of $9,882,594 for the period from 1 January to 31 December 2011 and further noted that an additional subvention in the amount of $2,356,750, for the period from 1 January to 29 February 2012, would be included as a first charge against the provision for special political missions under section 3, Political affairs, of the proposed programme for the biennium 2012-2013.

17. In consideration of the conclusion and recommendations contained in the report of the Advisory Committee, the General Assembly, in its resolution 65/259, noted, as an exceptional measure, the funding requirement for the Special Court of up to $12,239,344, covering the periods from 1 January to 31 December 2011 and from 1 January to 29 February 2012, to supplement the voluntary financial resources of the Court. In addition, the Assembly authorized the Secretary-General, as an exceptional measure, to enter into commitments in an amount not to exceed $9,882,594 to supplement the voluntary financial resources of the Special Court, for the period from 1 January to 31 December 2011.

18. The voluntary contributions received in 2011 amounted to $4,815,934. Some of the expenditures planned for 2011 were deferred as a result of the verdict not having been delivered in that year. As a result, an amount of $1,278,515 was carried over into 2012.

19. Unforeseen developments in the Taylor judicial proceedings caused a shift in the February 2012 milestone. At the 15th Plenary of Judges, the revised completion date of the Taylor case was projected as July 2012. While the initial request for the approved 2012 budget had been $2,356,750, the shift in the milestone led to the need to review the budget for 2012. This resulted in an increase of $6,709,650, bringing the total requirement to $9,066,400 for the period from January to July 2012. In his most recent report on requesting a subvention to the Special Court (A/66/563), the Secretary-General therefore requested additional financial support in the amount of $9,066,400 for the activities of the Special Court through July 2012. This reflected an increase of $6,709,650 in the subvention over the $2,356,750 previously estimated cost for January and February 2012, as well as the additional five months, until July 2012.

20. In its resolution 66/247, the General Assembly authorized the Secretary-General to enter into commitments in an amount not to exceed $9,066,400 for the subvention for the Special Court. The verdict was delivered in April 2012, and it

was therefore anticipated that the Court's operations would go beyond July 2012 and that there would be additional budgetary requirements. In that regard, the Court continued to undertake rigorous budget management in order to achieve savings. The Assembly was requested to consider an extension of the implementation period of the 2012 subvention beyond 31 July 2012, which the Assembly had approved in its decision 66/563. As at 8 November 2012, fundraising efforts have resulted in voluntary contributions of $2,486,222 and pledges of $469,322. If the pledges are received, the Court will be able to fund core operations up to the first week in December 2012.

III. Progress to date

A. Judicial proceedings

Completed trials

21. The Court has made significant progress in achieving its mandate. Three trials involving eight accused have been completed in Freetown: *Prosecutor v. Fofana and Kondewa* (the Civil Defence Forces case), *Prosecutor v. Sesay, Kallon and Gbao* (the Revolutionary United Front case) and *Prosecutor v. Brima, Kamara and Kanu* (the Armed Forces Revolutionary Council case). Eight persons convicted by the Special Court are now serving sentences in Rwanda, ranging from 15 to 52 years.

Charles Taylor trial

22. The remaining major case before the Special Court, *Prosecutor v. Charles Ghankay Taylor*, is now in its final phase. The sentencing judgement was issued on 30 May 2012. The Trial Chamber found Mr. Taylor individually criminally responsible for aiding and abetting and planning the crimes contained in all 11 counts of the indictment. The Trial Chamber imposed a sentence of 50 years of imprisonment. Appellate proceedings commenced with the filing of notices of appeal by both parties on 19 July 2012. Cumulatively, the parties have submitted 49 grounds of appeal against the trial judgement. The final determination as to Mr. Taylor's guilt or innocence will be made by the Appeals Chamber when it renders its final judgement in September 2013.

Contempt proceedings

23. The successful administration of justice by the Special Court requires the protection of witnesses and adherence to the witness protection measures ordered by the Special Court. During its completion phase, the Court marked a sharp increase in issues related to the protection of witnesses. In 2011, four contempt motions were filed with Trial Chamber II. Allegations were subsequently investigated and indictments issued in two cases involving five accused. In June 2012, a single judge commenced the trial proceedings for two contempt cases: *Independent Counsel v. Bangura et al.* and *Independent Counsel v. Senessie* in Freetown. Since two of the five accused charged with contempt had been convicted by the Court and were serving their sentences in Mpanga Prison in Rwanda, the Court conducted the trials in Freetown, linking the proceedings to Kigali via videoconference. This was made possible as a result of the inter-Tribunal cooperation between the International Criminal Tribunal for Rwanda and the Special Court. Further, since two of the

accused were remanded into custody at the commencement of the trials, the Court re-established the detention facility and provided the staffing and operational resources required for the proper administration of the facility.

24. On 5 July 2012, in the case of *Independent Counsel v. Senessie*, the accused, a former member of the Revolutionary United Front, was found guilty on eight counts of contempt of court, as contained in the order in lieu of an indictment. In August 2012, the accused was sentenced to a term of imprisonment of two years. The case of *Independent Counsel v. Bangura et al.* was completed in October 2012. The four persons convicted of contempt of court in that case were sentenced to terms of imprisonment ranging from 18 months to two years. Ibrahim Bazzy Kamara and Santigie Borbor Kanu (who had been convicted by the Special Court and were serving their sentence in Rwanda) were sentenced to prison terms of two years. Hassan Papa Bangura was sentenced to 18 months, and Samuel Kargbo received an 18-month suspended sentence.

25. On 19 July 2012, *In the matter of contempt arising from the case of Prosecutor v. Charles Taylor*, the Trial Chamber found that there was reason to believe that the Lead Counsel for Mr. Taylor had, during the trial proceedings, committed contempt of court by disclosing information in violation of an order of the Chamber. On 19 October 2012, Justice Doherty issued a judgement finding that the Lead Counsel was not guilty of knowingly and wilfully interfering with the administration of justice of the Special Court.

26. Additionally, the Special Court has before it a new contempt case, *Independent Counsel v. Prince Taylor*, which could not have been foreseen at the time of the May 2011 completion strategy. On 6 October 2012, Prince Taylor was arrested on nine counts of contempt of the Special Court for allegedly interfering with prosecution witnesses and another person who was about to give evidence in contempt proceedings. The initial appearance of Prince Taylor has been conducted and the accused has been remanded into custody in Freetown.

27. The verdicts in the *Independent Counsel v. Bangura et al.* and *Independent Counsel v. Senessie* cases and the ongoing *Independent Counsel v. Prince Taylor* case have further implications for the Court's operations. Two convicted and one accused are now housed in the Special Court's re-established detention facility. Pursuant to rule 103 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone and the Practice Direction on Designation of States for Enforcement of Sentences of the Special Court for Sierra Leone, if the President of the Special Court for Sierra Leone decides that a person convicted of contempt of court should serve his/her sentence in Sierra Leone, appropriate legal measures must be adopted. Consequently, the Registry is working with the Government of Sierra Leone on the possibility of concluding an enforcement of sentencing agreement with the State.

B. Completion timeline

28. The approved May 2011 completion strategy projected that all the trials and appeals would be completed by May 2012. The strategy relied on the expectation that a judgement on the merits in the Taylor trial would be delivered in September 2011, with a sentencing judgement (if any) in November 2011 and an appeals judgement (if applicable) in May 2012. However, during the course of 2011,

unforeseen developments, such as the initiation of two contempt of court cases, the loss of critical staff and the volume and complexity of the evidence to be reviewed in the Taylor case, resulted in a shift in the milestones projected by the strategy. At the beginning of September 2011, the judges of Trial Chamber II advised that the verdict would not be delivered in September owing to: (a) challenges from the judgement drafting process, including the time required to review 50,000 pages of witness transcripts and 1,500 exhibits; and (b) the complexity of the legal and evidentiary issues presented by the parties. The judgement on the merits in the Taylor case was delivered instead on 26 April 2012 and the sentencing judgement on 30 May 2012.

29 The aforementioned developments and unexpected judicial events have had an impact on the previously established judicial milestones. The changes prompted the 18th Plenary of Judges of the Special Court, held in May 2012, to review the May 2011 completion strategy and establish new completion timelines. A number of factors were taken into account, including the complexity of the case, the fact that Mr. Taylor is the first sitting Head of State to be prosecuted and convicted by an international tribunal since the Nuremburg trials, and the substantial trial record to be reviewed by the Appeals Chamber (420 trial days, during which 115 witnesses were heard, 1,521 exhibits were admitted and 49,000 pages of transcripts were produced). The Taylor judgement comprises more than 2,530 pages. Further consideration was also given to the highly probable delays that might stem from applications for extensions of time and requests to present additional evidence under rule 115. Additionally, Mr. Taylor and the Prosecution have appealed a combined total of 49 grounds of appeal. In the light of these issues, the appeals judgement, which marks the end of all proceedings, is now projected for September 2013, with 8 to 10 weeks for transition. It should be noted that the Appeals Chamber has consistently met its projected completion dates in all prior cases.

C. Transition to the Residual Special Court for Sierra Leone

30. The Special Court is now in its completion phase, and in addition to managing its ongoing judicial proceedings is preparing for its transition to the Residual Special Court. The Special Court has made significant progress in preparing for the transition. In August 2010, the United Nations and the Government of Sierra Leone signed the Agreement on the Establishment of a Residual Special Court for Sierra Leone. The Ratification Act was passed by the Sierra Leone Parliament in December 2011 and gazetted in February 2012. The Registry is currently working with the Office of Legal Affairs, the Management Committee, the Government of Sierra Leone, the Government of the Netherlands and other stakeholders on the legal, financial and technical aspects of the establishment of the Residual Special Court. The Registrar has established a transition working group for the coordination of all legal and practical arrangements to ensure a smooth transition. The Registry has also prepared and presented to the Management Committee the preliminary budget for the set-up and first year of operations of the Residual Special Court. As detailed below, the Special Court has commenced liquidation of its remaining assets by transferring them to the Government of Sierra Leone. Finally, the Special Court has submitted a draft headquarters agreement between Sierra Leone and the Residual Special Court, which is being considered by the Government of Sierra Leone.

31. The statute of the Residual Special Court enumerates the residual functions involved and guarantees the continuity of the jurisdiction, functions, rights and obligations of the Special Court. After the closure of the Special Court in 2013, the Residual Special Court will manage the residual functions of the Court as mandated, including: (a) enforcement of sentences: monitoring and overseeing prisoners serving their sentences and deciding on applications for early release and/or pardon, made by prisoners or their host States; (b) witness protection: enforcing and overseeing the implementation of witness protection orders; (c) management of archives: preserving and providing access to the archives of the Special Court; (d) contempt of court: referring or adjudicating contempt of court cases; (e) review of judgements: adjudicating requests for review of the judgements of the Special Court; and (f) at-large accused: referring or adjudicating the trial of the indicted and at-large accused.

32. Pursuant to article 6 of the Agreement, the Residual Special Court will carry out its functions at an interim seat in The Hague, with a branch or sub-office in Freetown for witness protection and support and coordination of defence issues, until such time as the United Nations and the Government of Sierra Leone have agreed otherwise. In both locations, the Residual Special Court will share an administrative platform with another organization. In The Hague, for example, the Special Court has entered into negotiations with the International Tribunal for the Former Yugoslavia to provide a shared information technology and administrative platform for the Residual Special Court. In Freetown, the Special Court has worked with the United Nations Development Programme and continues to search for a suitable host institution that would provide such key services as office space, security, procurement, finance, information technology services and facilities management for the Residual Special Court.

33. Ongoing functions will be managed by the personnel in both offices. If any judicial proceedings are triggered, all the necessary arrangements will be made to convene the Residual Special Court. Pursuant to article 15 of the Residual Special Court statute, the Secretary-General, in consultation with the President of the Residual Special Court, will appoint a Registrar. The Registrar will be based permanently at the seat of the Residual Special Court and will be responsible for the administration of that Court and for all financial resources. The Residual Special Court will be a small, lean body. Its secretariat will comprise six to eight staff. The Hague sub-office will consist of four staff: a Registrar, a Prosecution Legal Advisor/Evidence Officer, an Information/Archiving Officer and an Office Manager. The office in Freetown will consist of three staff: two Witness Protection and Support Officers and a Defence Officer. Additionally, articles 11 to 14 of the statute of the Residual Special Court provide for remote staff to be remunerated on a solely pro rata basis and for a roster of judges, including the President and in respect of the Trial Chamber. There will also be a roster of Prosecutors.

34. Rather than recruit additional staff or consultants to carry out functions associated with setting up the Residual Special Court and the related transitional legal, technical and logistical work as well as the transition of the Special Court to the mechanism in December 2013, existing Special Court personnel, in addition to their regular duties, will be working on additional tasks.

Transfer of the Johnny Paul Koroma case

35. The Special Court has one fugitive indictee at large, Johnny Paul Koroma. The Prosecutor is currently negotiating the transfer of the Koroma case to a State that has jurisdiction and that is willing and adequately prepared to accept the case. Resources are required to analyse jurisdictional questions, examine case files, address witness issues and prepare case files and evidence for potential transfer, should the indictee be apprehended.

Archiving

36. The Special Court is striving to complete its mandate in a timely fashion to facilitate the smooth transfer of its facilities to the Government of Sierra Leone and an expeditious transition to the Residual Special Court. The Special Court successfully relocated the original set of its records to The Hague in December 2010, with the assistance of the Government of the Netherlands. Court personnel in the Freetown office and The Hague sub-office are now working towards two critical milestones. The first involves preparing two sets of Special Court archives, one that will be located with the Residual Special Court, and the other that will be transferred to the Government of Sierra Leone in accordance with article 7 of the Agreement. The second, in accordance with article 7 of the statute, which states that electronic access to, and printed copies of, the public archives should be available to the public in Sierra Leone, involves the preparation of the copy of the set of records for the Government of Sierra Leone. That process is ongoing in Freetown and is supported by the Court Management Section (paper records) and staff from the Communications and Information Technology Unit (electronic records). The Court has now completed the preparation of all paper records of the three completed trials and is currently in the process of digitizing all the audiovisual records of the completed trials. Also, in preparation for the transition to the Residual Special Court, the Registry, in coordination with the Office of Legal Affairs of the Secretariat and the other organs of the Special Court, is coordinating the preparation of the access policies for the Residual Special Court archives.

Peace Museum

37. Article 7 of the Residual Special Court statute states that electronic access to, and printed copies of the public archives of the Special Court should be available to the public in Sierra Leone. The goal of the Peace Museum project is to establish a museum designed by national stakeholders that would memorialize the conflict and the peace process and house the printed copies of the public archives of the Special Court. In collaboration with the Government, the Special Court has developed a project proposal to establish a memorial at the Court's Freetown site, which would include an exhibition, a memorial and an archive of war-related materials. In December 2010, the United Nations Peacebuilding Fund approved a grant of $195,000 for the Court to realize that vision, and the Peace Museum project officially began in March 2011. Significant progress has been made on each of the Peace Museum's components: the archive, the memorial and the exhibition.

38. The Peace Museum project is being implemented by a committee of national stakeholders, including the Office of the Attorney General and Minister of Justice; the Office of the Secretary to the President; the Ministry of Tourism and Cultural Affairs; the Human Rights Commission of Sierra Leone; the National Archives; the

National Museum; the Monuments and Relics Commission; the University of Sierra Leone; the National Judiciary; the Advocacy Movement Network, the Amputees and War Wounded Association; the Sierra Leone Union of Photographers; and Jarrett-Yaskey, Garber and Associates; and, as an observer, the United Nations Integrated Peacebuilding Office in Sierra Leone.

39. In December 2011, the Sierra Leone Human Rights Commission transferred the records of the Truth and Reconciliation Commission to the Special Court. The Court is working with the Human Rights Commission to organize and digitize the Commission's records for inclusion in the Peace Museum. A public copy of the Court's records is ready to be transferred to the Peace Museum, together with the Court's law library. In April 2011, the Peace Museum opened a three-day preview exhibition. The preview was organized as part of the celebrations for Sierra Leone's fiftieth independence anniversary and featured videos such as "The Sierra Leone story", on the country's independence, materials relating to the Commission's national vision and a preview of the Court's archives. In addition, a number of historical documents were loaned from the National Archives to complement the exhibition.

Witness protection

40. Since the creation of the Special Court, the Witness and Victims Section has facilitated the appearance of 545 witnesses before the Court. The Section has been constantly evaluating the threats faced by the Court's witnesses during the completion phase. The Witness and Victims Section has been actively preparing for the transition of its responsibilities to the Residual Special Court office located in Freetown. In addition, the Court is working with the national Witness Protection Unit established in 2011 within the Sierra Leone Police. The Unit will provide effective and reliable assistance to help the Court to meet its long-term post-trial statutory obligations towards witnesses. It will also provide protection and assistance to witnesses in national cases that include involvement in organized crime, corruption and gender-based violence. In addition, the Court has been working closely with the national police on a number of cases requiring witness protection services. This has provided further practical experience for police officers trained in 2009 as part of the Court's residual and legacy activities. As the Special Court approaches its completion, the Section has been responding to an increased number of security concerns. Therefore, during the transition phase the Court's Outreach office has been playing a critical role in terms of raising awareness throughout Sierra Leone and Liberia about witness protection issues, and the potential consequences to witness interference and intimidation. Outreach activities provide the Court with the forum to highlight the witness protection capabilities of the Residual Special Court and assist the national Witness Protection Unit to ease the concerns of witnesses and community members about protection and security issues that may arise after the Special Court closes.

IV. Financial position

41. As at 9 October 2012, the Court had available cash in the amount of $4,214,243, which includes the Court's outstanding obligations and total contributions received in 2012. The Court has outstanding pledges in the amount of

$2,449,322. If the outstanding pledges are received, it will have enough fund[illegible] to carry out its operations until the first week in December 2012.

42. The previous subvention for the period from 1 January to 31 July 2012 was $9,066,400, the implementation of which was extended by the General Assembly in its decision 66/563. The revised budget for 2012 totalled $15,423,800. Despite continued fundraising efforts, the Special Court will experience a shortfall in contributions in the amount of $921,156 for the period ending 2012. Total requirements for 2013 are estimated at $13,078,844, including $11,195,000 for the Special Court's operations from January to September 2013; $383,844 for ad hoc contempt proceedings; and $1,500,000 for the transition to the Residual Special Court by December 2013.

43. Upon the completion of its mandate, the Court will transition to the Residual Special Court. It is estimated that the Residual Special Court will require $2,000,000 per year, starting with the first year of operation. In addition to the ongoing operations, in a given fiscal year, the Residual Special Court may have ad hoc proceedings, including review proceedings, contempt proceedings and witness variation proceedings. When any of the ad hoc proceedings is instigated, an amount will be required for each, in addition to the annual cost of managing the Residual Special Court. It is estimated the ad hoc functions will cost as follows: review proceedings ($2,696,900); contempt proceedings ($650,000); and witness variation proceedings ($113,300). While the ongoing operations will be the continuing obligation of the Residual Special Court, the ad hoc proceedings will occur only periodically. Therefore, the total estimated cost for the Residual Special Court for any given fiscal year would include the total operations costs of $2,000,000, in addition to the specified cost of the ad hoc proceeding(s) instigated in that fiscal year. Utmost efforts will be made to secure the voluntary contributions for the Residual Special Court.

44. The Special Court understands that any subvention approved by the General Assembly would be disbursed by the United Nations to the Court through the mechanism of the Controller effecting transfers to the Registrar. The Registrar, as an appointee of the Secretary-General, would be required, in that regard, to provide the Controller with monthly statements of expenditures and income of the Court. The existing arrangements, whereby the Court contracts with the Office of Internal Oversight Services for internal audits, and with the Auditor-General of South Africa for external audit services, would remain in place.

V. Legacy activities and liquidation of court assets

A. Legacy activities

45. On 9 October 2012, the President and Prosecutor of the Court addressed the Security Council in order to brief them on the Special Court's accomplishments, thank them for their support, and prepare them for the transition to the Residual Special Court. The briefing was well received by the Security Council.

46. The legacy activities of the Special Court include the establishment of the Peace Museum and of a virtual tribunal. The Court is exploring the possibility of collaborating with the University of California at Berkeley to create the virtual

tribunal, which aims to make available in "real time" the video record of trials, trial transcripts and documentation, interviews and commentary. The Special Court will be one of the virtual tribunal's pilot collections and will feature the Court's records and trial footage. Through web-based availability of the collection, in addition to virtual tribunal "learning centres" in key Sierra Leone locations, such as schools and universities or even the Peace Museum, the project will hopefully make the Court's legacy accessible to a wide audience.

47. Furthermore, after the verdict in the Taylor trial in May 2012, the Special Court commissioned an independent nationwide survey in Sierra Leone and Liberia that was conducted by the organization No Peace Without Justice and paid for with funding by the European Union. The survey, which was commissioned to measure the impact and legacy of the Court, found that almost 80 per cent of the people surveyed believed that the Court had achieved its mandate. Additionally, the survey found that 91 per cent of the people of Sierra Leone and 78 per cent of the people of Liberia believed that the Court had contributed to bringing peace to Sierra Leone.

48. The Special Court is also collaborating with the International Centre for Transitional Justice to host two legacy conferences, which will be paid for by the Government of Canada. The first will be held in New York in November 2012 and the second will be held in Freetown in January 2013. The purpose of the conferences will be to bring together Sierra Leoneans and members of the international community with the goal of developing a final report on the lessons learned of the Court.

49. Finally, the Office of the Prosecutor of the Court has participated in a collaborative project with the Prosecutors from the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Extraordinary Chambers in the Courts of Cambodia, the Special Tribunal for Lebanon and the International Criminal Court. The project's goal is to bridge gaps in the issue of impunity, deliver justice to victims and continue the development of international criminal law through the production of a comprehensive and consolidated handbook of practices and protocols in respect of international criminal prosecutions.

B. Liquidation of the Court's assets

50. With regard to the liquidation of the assets of the Special Court, article 12 of the Agreement, which governs practical arrangements, states that

> "appropriate arrangements shall be made to ensure that there is a coordinated transition from the activities of the Court to the activities of the Residual Special Court. Priority shall be given to the needs of the Residual Special Court in the liquidation of the assets of the Court, after which the assets shall be disposed of to the Government of Sierra Leone in accordance with the liquidation policy of the Court".

51. The Court has made significant progress in its liquidation. The Management Committee approved the Court's liquidation policy in June 2010. Subsequently, in February 2011, the Management Committee approved an addendum to the policy. The 2011 audits of accounts and assets, conducted by the Auditor-General of South

Africa are now complete and the final report has been made available to the Management Committee.

52. In 2009, following the transfer of the persons convicted by the Special Court to serve their sentences in Rwanda, the Court transferred its detention facility to the National Prison Service to house female inmates. With the departure of the United Nations Mongolian Guard Force and the drastic downsizing of personnel that has taken place in the past two years, the Court is now occupying only one third of the site. Two thirds of the site has been vacated to be transferred to the Government of Sierra Leone.

53. The first phase of the liquidation process of the Special Court's moveable assets commenced in August 2011, when the Court turned over the first batch of its assets to the Government of Sierra Leone. In November 2011, the Court handed over one block of the premises to the Law School of Sierra Leone to accommodate its student overflow. As a result, the Court's fuel consumption has decreased by 60 per cent. Witness safe houses in Freetown, Liberia and The Hague have all been closed. The Court is working with the Government of Sierra Leone and other stakeholders to convert the security building to a Peace Museum, which will house the Court's library and a copy of the set of its archives that will remain in Sierra Leone. As part of its contribution to the national Witness Protection Unit, on 29 September 2012, the Court handed over the old personnel building to the Sierra Leone police for the Unit's use. Part of the site has also been made available to the Sierra Leone Law School to accommodate its need for extra classroom space for lectures.

54. A small part of the Court site will nevertheless continue to be needed until the delivery of the appeals judgement in the Taylor trial in order to manage the ongoing contempt proceedings and to provide administrative and operational support to the parties and the Chambers, as required; to respond to post-testimony witness protection needs and to assist in setting up the Residual witness protection unit; and to meet the Security Council resolution requirement of making the Taylor trial accessible to the subregion. The site is now being partly shared with the Government of Sierra Leone, with the skeletal staff of the Special Court remaining in the judicial and legal services division and with the administrative secretariat.

VI. Conclusion and recommendation

55. Given the lack of voluntary contributions to the Special Court for Sierra Leone, the Secretary-General seeks the approval of the General Assembly for funding in the amount of $14,000,000 for the Court for 2013 in order to enable it to complete its mandate.

56. The General Assembly is requested:

(a) **To approve a subvention in the amount of $14,000,000 for the period from 8 December 2012 through 31 December 2013 for the Special Court for Sierra Leone;**

(b) **To appropriate an amount of $14,000,000 as a subvention to the Special Court for Sierra Leone under the programme budget for the biennium 2012-2013.**

Annex I

Availability of funds for the Special Court for Sierra Leone as at 30 September 2012 and projected requirements from 1 January to 30 September 2013

A. Income as at 31 October 2011

(United States dollars)

	Total
Cash balance brought forward as at 1 January 2012	1 278 515
Contributions received from 1 January to 31 July	506 222
Contributions anticipated and pledges August to December 2012	2 449 322
Subvention	9 066 400
Total	**13 300 459**

B. Expenditure as at 30 September 2012

(United States dollars)

Current year	*Disbursement*	*Obligation*	*Total expenditure*
January	849 718	160 572	1 010 290
February	903 825	754 374	1 658 199
March	865 454	18 583	884 037
April	1 116 579	91 496	1 208 075
May	1 315 375	298 494	1 613 869
June	956 262	(30 896)	925 366
July	1 136 738	(287 573)	849 165
August	1 275 374	(164 106)	1 111 268
September	1 234 890	(146 374)	1 088 516
October			
November			
December			
Total	**9 654 215**	**694 570**	**10 348 785**

Annex II

Requirements by component and object of expenditure, Special Court for Sierra Leone

Table 1
Requirements by component and funding availability
(United States dollars)

Component	*Actual expenditure 1 January-31 December 2011*	*Estimated requirements[a] 1 January-December 2012*	*Estimated requirements[a] January-September 2013*
1. The Chambers	3 039 631	2 601 400	1 836 800
2. The Office of the Prosecutor	1 604 362	1 781 600	1 100 100
3. The Registry	10 934 256	10 306 400	7 725 900
4. Contingency	–	734 400	533 100
5. Contempt proceedings	–	–	382 944
6. Transition (3 months)	–	–	1 500 000
Subtotal	**15 578 249**	**15 423 800**	**13 078 844**
Less unused allotment		(1 202 185)	
Total	**15 578 249**	**14 221 615**	**13 078 844**
Pledges and contributions	4 815 934	2 955 544	–
Balance brought forward	3 515 030	1 278 515	(921 156)
Subvention[b]	8 525 800	9 066 400	–
Total	**16 856 764**	**13 300 459**	–
Surplus/(shortfall)	**1 278 515**	**(921 156)**	**(14 000 000)**

[a] Approved by the Management Committee.

[b] For the period 1 January to 31 December 2011, the regular budget amount approved by the General Assembly in its resolution 65/259 was $9,882,594. Of this amount, $8,525,800 was released to the Special Court for Sierra Leone and reported in the second performance report for the biennium 2010-2011, given that additional voluntary contributions were received during 2011.

Table 2

Requirements by object of expenditure and funding availability, Special Court for Sierra Leone

(United States dollars)

Object of expenditure	*Actual expenditure 1 January-31 December 2011*	*Estimated requirements[a] 1 January-December 2012*	*Estimated requirements[a] January-September 2013*
Posts (gross)	7 126 400	7 784 100	5 812 400
Temporary posts	880 401	701 000	489 000
Compensation to judges	1 928 305	1 521 400	1 066 600
Consultants and experts	173 174	218 600	90 500
Witness costs	35 540	57 400	36 500
Travel	431 969	427 100	276 100
Contractual services	2 131 361	1 182 300	729 600
General operating expenses	1 675 065	1 994 500	1 587 400
Hospitality and outreach	5 566	35 600	2 500
Supplies and materials	497 038	463 400	370 200
Acquisition of furniture and equipment	543 430	154 000	102 000
Tax liability	150 000	150 000	100 000
Contingency		734 400	533 100
Contempt proceedings		–	382 944
Transition (3 months)		–	1 500 000
Subtotal	**15 578 249**	**15 423 800**	**13 078 844**
Less unused allotment		(1 202 185)	
Total	**15 578 249**	**14 221 615**	**13 078 844**
Pledges and contributions	4 815 934	2 955 544	–
Balance brought forward	3 515 030	1 278 515	(921 156)
Subvention[b]	8 525 800	9 066 400	–
Total	**16 856 764**	**13 300 459**	–
Surplus/(shortfall)	**1 278 515**	**(921 156)**	**(14 000 000)**

[a] Approved by the Management Committee.

[b] For the period 1 January-31 December 2011, the regular budget amount approved by the General Assembly in its resolution 65/259 was $9,882,594. Of this amount, $8,525,800 was released to the Special Court for Sierra Leone and reported in the second performance report for the biennium 2010-2011, given that additional voluntary contributions were received during 2011.

Annex III

Post requirements and drawdown (November 2010-September 2013), Special Court for Sierra Leone

	Professional and higher categories									*General Service and related categories*			*National staff*		
	USG	*ASG*	*D-2*	*D-1*	*P-5*	*P-4*	*P-3*	*P-2/ P-1*	***Subtotal***	*Field Security Service*	*General Service*	***Total international***	*National Professional Officer*	*Local level*	***Total***
1 November to 31 December 2010	10	2	1	2	3	10	22	14	**64**	8	–	**72**	14	25	**111**
1 to 31 January 2011	10	1	1	2	3	9	20	14	**60**	8	–	**68**	16	18	**102**
1 to 28 February 2011	10	1	1	2	3	9	19	14	**59**	8	–	**67**	16	18	**101**
1 to 31 March 2011	10	1	1	2	3	9	18	14	**58**	8	–	**66**	16	18	**100**
1 April to 30 June 2011	10	1	1	2	3	9	18	14	**58**	8	–	**66**	15	14	**95**
1 to 31 August 2011	11	1	1	2	3	9	18	13	**58**	8	–	**66**	15	12	**93**
1 to 31 October 2011	11	1	1	2	3	9	17	13	**57**	4	–	**61**	14	12	**87**
1 November to 31 December 2011	7	1	1	2	3	7	15	10	**46**	2	–	**48**	10	8	**66**
1 January to 29 February 2012	7	1	1	2	3	7	15	11	**47**	7	–	**54**	15	19	**88**
1 to 31 March 2012	7	1	1	2	3	7	15	11	**47**	4	–	**51**	15	19	**85**
1 to 30 April 2012	7	1	–	1	2	5	14	10	**40**	4	–	**44**	15	18	**77**
1 May to 31 July 2012	7	1	–	1	2	5	14	10	**40**	4	–	**44**	14	17	**75**
1 August to 30 September 2012	7	1	–	2	3	7	16	10	**46**	10	–	**56**	17	17	**90**
1 October to 30 November 2012	7	1	–	2	3	7	15	10	**45**	10	–	**55**	17	17	**89**
1 December 2012 to 31 January 2013	7	1	–	2	3	7	15	10	**45**	9	–	**54**	15	19	**88**
1 February to 31 May 2013	7	1	–	1	2	6	15	10	**42**	9	–	**51**	15	19	**85**
1 June to 30 September 2013[a]	7	1	–	1	2	6	15	10	**42**	6	–	**48**	17	17	**82**

[a] From October to December 2013, only skeleton staff will remain to complete the transition process.